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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,446	02/25/2004	Kenji Yoshizawa	04111 /LH	5648
	590 04/05/2007 DLTZ, GOODMAN & C	EXAMINER		
220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708			NEGRON, WANDA M	
			ART UNIT	PAPER NUMBER
,		2622		
SHORTENED STATUTORY	DEBIOD OF DESPONSE	MAIL DATE	DELIVER	V MODE
			DELIVERY MODE	
3 MONTHS 04/05/2007			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

		Applicat	ion No.	Applicant(s)				
Office Action Summary		10/787,4	146	YOSHIZAWA ET	YOSHIZAWA ET AL.			
		Examine	er .	Art Unit	·			
	· .		И. Negrón	2622				
Period fo	The MAILING DATE of this commu or Reply	nication appears on th	ne cover sheet w	ith the correspondence a	address			
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD IN CHEVER IS LONGER, FROM THE IN INSIGN of time may be available under the provision SIX (6) MONTHS from the mailing date of this come of period for reply is specified above, the maximum sure to reply within the set or extended period for reply received by the Office later than three months ed patent term adjustment. See 37 CFR 1.704(b).	MAILING DATE OF T s of 37 CFR 1.136(a). In no e munication. tatutory period will apply and v y will, by statute, cause the ap	THIS COMMUNION THE PROPERTY OF	CATION. reply be timely filed NTHS from the mailing date of this BANDONED (35 U.S.C. § 133).				
Status					•			
1)⊠	Responsive to communication(s) fil	ed on <i>25 February 2</i> 0	004.					
2a)□	This action is FINAL .	2b)⊠ This action is						
3)□	· -							
,	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
Disposit	ion of Claims							
4)	Claim(s) 1-6 is/are pending in the a	pplication.						
•/23	4a) Of the above claim(s) is/are withdrawn from consideration.							
5)□	Claim(s) is/are allowed.							
·	Claim(s) <u>1-6</u> is/are rejected.							
7) 🖂	Claim(s) 4 is/are objected to.							
8)[Claim(s) are subject to restr	iction and/or election	requirement.					
Applicat	ion Papers							
9)□	The specification is objected to by the	ne Examiner.						
,—	The drawing(s) filed on <u>24 February</u>		ccepted or b)	objected to by the Exan	niner.			
,_	Applicant may not request that any obj		and the second s					
	Replacement drawing sheet(s) including							
11)	The oath or declaration is objected	to by the Examiner. N	Note the attache	d Office Action or form I	PTO-152.			
Priority (under 35 U.S.C. § 119		·					
	Acknowledgment is made of a claim	for foreign priority u	nder 35 U.S.C.	§ 119(a)-(d) or (f).				
a)	All b) Some * c) None of: None of:							
	1. ☐ Certified copies of the priority			Annliantion No				
	2. Certified copies of the priority				al Stage			
	3. Copies of the certified copies application from the Internati	•		received in this Nation	al Stage			
* *	application from the internation see the attached detailed Office acti	·		received				
`	See the attached detailed Since don	on for a list of the oci	tilled doplos flot	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,				
		·						
Attachmer	nt(s)							
	ce of References Cited (PTO-892)			Summary (PTO-413)				
	ce of Draftsperson's Patent Drawing Review (mation Disclosure Statement(s) (PTO/SB/08)			(s)/Mail Date Informal Patent Application				
	er No(s)/Mail Date		6) Other:	• •				

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

2. Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 4 recites the limitation "a focus lens", which is a limitation of parent claim 3.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most

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cases since use of technology permits the function of the descriptive material to be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

4 Claim 6 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 6 defines a computer-readable program, embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" — Guidelines Annex IV). That is, the scope of the presently claimed computer-readable program can range from paper on which the program is written, to a program simply contemplated and memorized by a person.

Claim Rejections - 35 USC § 103

- 5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to

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be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

- 6. <u>Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable</u> over Sakai (JP Published Application 2001-268413).
- 7. Regarding **claim 1**, Sakai discloses a camera device comprising an optical system (11a-c) driven to a predetermined position upon initialization, i.e. releasing the collapsible zoom lens (see paragraph [0022]) by activating zoom motor 11d, when a photographing mode has been set, a memory (17, 24) including an area for storing lens information inherent to the optical system, i.e. lens information inherently required to initialize the optical system to said predetermined state, and a controller (13, 21) which controls the initialization of the optical system based on the lens information stored in the memory.

Sakai does not explicitly teach that said memory stores a file management program, and a management area which is managed by using the file management program, the area for storing the lens information differing from the management area.

Official notice is taken that it is old and well known in the art to initialize hardware components in a computer system using a startup BIOS program, i.e. a management file, which would also load the operating system, interpreted as a file managed by the BIOS program, after the initialization is completed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a routine in the BIOS to initialize the optical system to a known state before loading the operating system in order to decrease the amount

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of time required to initialize the camera for recording (see paragraphs [0017] and [0021]).

While it may not be explicitly stated in the reference above that the functionality of an electronic device such as a computer system may be realized by a digital camera, it is well known to a skilled artisan that a digital camera and a computer system are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if a digital camera and a computer system are not in the same field of endeavor, which the examiner does not concede, a digital camera and a computer system are reasonably pertinent to solving the problem of controlling the initialization of an optical system by accessing the required information in memory, and would have commended themselves to an artisan addressing such a problem. In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

- Regarding claim 2, Sakai discloses that the optical system comprises a zoom lens (11a).
- 9. Regarding **claims 3 and 4**, Sakai discloses that the optical system comprises a focus lens, i.e. an image pick-up lens driven in the direction of a focus (11c).
- 10. Method **claim 5** is drawn to the method of using the corresponding apparatus claimed in claims 1. Therefore method claim 5 corresponds to apparatus claim 1 and is rejected for the same reasons of obviousness as used

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above.

11. **Claim 6** is drawn to a computer readable program corresponding to the method claimed in claim 5. Therefore claim 6 corresponds to method claim 5 and is rejected for the same reasons of obviousness as used above.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wanda M. Negrón whose telephone number

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is (571) 270-1129. The examiner can normally be reached on Mon-Fri 6:30 am -

4:00 pm alternate Fri off.

13. If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax

phone number for the organization where this application or proceeding is

assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

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free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

Wanda M. Negrón March 29, 2007

SUPERVISORY PATENT EXAMINER